

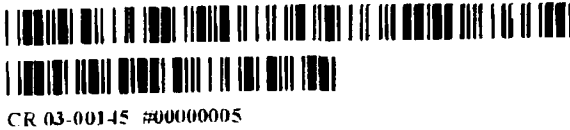
Judge


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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM G COUSER,

Defendant

NO CR03-145K

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Donald Currie, Robert Westinghouse and Susan Loitz, Assistant United States Attorneys for said District, and the defendant, WILLIAM G COUSER, and his attorney, Richard Hansen, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)

1 Waiver of Indictment Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in an Information.

2 The Charge Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge contained in the Information. By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document

a Mail Fraud, as charged in Count 1, in violation of Title 18, United States Code, Sections 1341 and 2

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USAO 2002R01073

UNITED STATES ATTORNEY
601 Union Street, Suite 5100
Seattle, Washington 98101-3903
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PTs
USDC
LTC

1 3 Elements of the Offense The elements of the offense of Mail Fraud as
2 charged in Count 1, in violation of Title 18, United States Code, Section 1341, are as
3 follows:

- 4 a. The Defendant devised or intended to devise a scheme or artifice to
5 defraud;
6 b. For the purpose of executing the scheme to defraud, the Defendant
7 placed or caused to be placed in an authorized depository for mail
8 matter, an item to be sent or delivered by the United States Postal
9 Service or a private or commercial interstate carrier
10 c. The Defendant acted knowingly and willfully.

11 4. The Penalties. Defendant understands that the statutory penalties for the
12 offense of Mail Fraud, as charged in Count 1 are as follows.

13 a Imprisonment for up to five (5) years, a fine of up to Two Hundred
14 and Fifty Thousand dollars (\$250,000 00), a period of supervision following release
15 from prison of up to three (3) years, and a One Hundred dollar (\$100 00) penalty
16 assessment. Defendant agrees that the penalty assessment shall be paid at or before the
17 time of sentencing.

18 Defendant agrees that any monetary penalty the Court imposes, including
19 the special assessment, fine, costs or restitution, is due and payable immediately, and
20 further agrees to submit a completed Financial Statement of Debtor form as requested by
21 the United States Attorney's Office

22 Defendant understands that supervised release is a period of time following
23 imprisonment during which he will be subject to certain restrictions and requirements.
24 Defendant further understands that if supervised release is imposed and he violates one
25 or more of its conditions, he could be returned to prison for all or part of the term of
26 supervised release that was originally imposed This could result in Defendant serving a
27 total term of imprisonment greater than the statutory maximum stated above.
28

1 5. Rights Waived by Pleading Guilty. Defendant understands that, by
2 pleading guilty, he knowingly and voluntarily waives the following rights.

3 a The right to plead not guilty, and to persist in a plea of not guilty;

4 b The right to a speedy and public trial before a jury of Defendant's
5 peers,

6 c. The right to the effective assistance of counsel at trial, including, if
7 Defendant could not afford an attorney, the right to have the Court appoint one for
8 Defendant;

9 d The right to be presumed innocent until guilt has been established at
10 trial, beyond a reasonable doubt,

11 e. The right to confront and cross-examine witnesses against
12 Defendant at trial;

13 f The right to compel or subpoena witnesses to appear on Defendant's
14 behalf at trial,

15 g The right to testify or to remain silent at trial, at which trial such
16 silence could not be used against Defendant, and

17 h The right to appeal a finding of guilt or any pretrial rulings.

18 6. Applicability of Sentencing Guidelines Defendant understands and
19 acknowledges the following:

20 a The United States Sentencing Guidelines, promulgated by the
21 United States Sentencing Commission, are applicable to this case;

22 b. The Court will determine Defendant's applicable Sentencing
23 Guidelines range at the time of sentencing,

24 c. If the Court accepts this Plea Agreement, the parties agree,
25 pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), that a sentence in the range
26 of zero to six (0-6) months and no fine is the appropriate disposition of this case.

27 d If the Court rejects the Plea Agreement and the agreed upon
28 disposition, the Defendant will be afforded the opportunity to withdraw his guilty plea in

1 accordance with Federal Rule of Criminal Procedure 11(c)(5)

2 7 Ultimate Sentence. Defendant acknowledges that no one has promised or
3 guaranteed what sentence the Court will impose or whether the Court will accept or
4 reject the Plea Agreement and its agreed upon disposition.

5 8 The parties agree that the following facts support the
6 Defendant's guilty plea. Defendant admits he is guilty of the charged offense:

7 a Beginning before April 20, 1996 and continuing to approximately July 30,
8 1996 WILLIAM G. COUSER devised and intended to devise a scheme and artifice to
9 defraud a health care benefit program in connection with the payment for health care
10 benefit services.

11 b In execution of the scheme and artifice to defraud, WILLIAM G. COUSER
12 wrote in the Nephrologist's Note section of the dialysis log relating to a dialysis
13 procedure for a patient whose initials are J.D. that occurred on April 20, 1996, the
14 following. "Dialysis in progress. No acute problems. Patient seen and examined."
15 However, on the date of the dialysis procedure, WILLIAM G. COUSER was not
16 present with the patient at any time during the dialysis. WILLIAM G. COUSER
17 knowingly and willfully inserted this false note with the knowledge and understanding
18 that University of Washington Physicians would rely on the representation of his
19 presence made by such note and would submit a claim for his professional services. As
20 a direct result of WILLIAM G. COUSER'S note, a false claim was submitted to
21 Premiera, a private/non-government sponsored insurer. On or about July 30, 1996,
22 WILLIAM G. COUSER caused an item, specifically a payment check from Premiera
23 that included \$124.44 for the claim for professional services by WILLIAM G. COUSER
24 relating to the dialysis of patient J.D. on April 20, 1996, to be deposited in an
25 authorized depository for U.S. mail for delivery to University of Washington Physicians
26 in Seattle, Washington.

27 c Waiver of Statute of Limitations. The Defendant acknowledges and
28 knowingly and voluntarily waives any claim, objection or defense he would have to the

1 charged offense based on all applicable statutes of limitations.

2 9. Additional Statement of Facts: The Defendant admits that the following is
3 also true.

4 a. WILLIAM G. COUSER is a physician, board certified in Nephrology and
5 Internal Medicine.

6 b. Since 1982, WILLIAM G O COUSER has been a faculty member in the
7 University of Washington's School of Medicine and has had tenure since 1982. From
8 1982 until February 2002, WILLIAM G. COUSER was the head of the UW
9 Department of Medicine's Division of Nephrology

10 c. Throughout his association with the University of Washington, WILLIAM G
11 COUSER has been a member of the University of Washington Physicians (UWP), a
12 corporate entity distinct from the University of Washington UWP submits claims for
13 professional services provided by faculty members of the UW School of Medicine
14 With respect to submitting claims for a physician's professional services for inpatient
15 dialysis, UWP relied on notes by attending physicians from the Nephrology Division in
16 that portion of a patient's dialysis record labeled "Nephrologist's Note".

17 d. Since approximately September 1991, WILLIAM G COUSER knew that for
18 a professional claim for a physician's professional services for inpatient dialysis, the
19 attending nephrologist must have been present with the patient at some time during the
20 dialysis procedure.

21 e. From approximately September, 1991 through approximately April, 2002,
22 WILLIAM G COUSER wrote notes in the Nephrologist's Note portion of the dialysis
23 record indicating his presence during the dialysis when he knew he may not have been
24 present In many instances when he wrote such notes, WILLIAM G. COUSER had
25 not, in fact, been present at any time during the dialysis WILLIAM G COUSER knew
26 that UWP relied on such notes in submitting claims for his professional services for
27 inpatient dialysis to government sponsored health care benefit programs including
28 Medicare, Medicaid and Tricare, and private sponsored health care benefit programs, in

1 connection with the payment for health care benefit services.

2 f Because WILLIAM G COUSER knowingly and willfully falsely represented
3 his presence during dialysis procedures, and UWP relied on such representations in
4 submitting claims for professional services, false claims for professional services were
5 submitted to government sponsored health care benefit programs including Medicare,
6 Medicaid, and Tricare and private sponsored health care benefit programs, resulting in
7 payments to UWP to which UWP was not entitled

8 10 Restitution. Defendant shall make restitution in the total amount of One
9 Hundred Thousand dollars (\$100,000.00), with credit for any amounts already paid
10 Defendant acknowledges that various health care benefit programs have paid at least this
11 sum for claims that were falsely submitted as described in paragraph 9. The United
12 States acknowledges that a significant portion of this sum did not directly benefit the
13 Defendant financially.

14 11. Loss. The United States and Defendant agree that the correct amount of
15 the loss is One Hundred Thousand dollars (\$100,000.00) for purposes of the United
16 States Sentencing Guidelines

17 12 Possible Exclusion. The Defendant acknowledges that he is subject to any
18 administrative action seeking exclusion pursuant to 42 U.S.C. §1320a-7(b) from
19 participation in Medicare, Medicaid and all other federal health care programs as
20 defined in 42 U.S.C. §1320a7-b(f). The Defendant acknowledges that the matter of
21 exclusion is not within the jurisdiction of the United States Attorney's Office, and will
22 be addressed by the Department of Health and Human Services

23 13. Defendant's Research.

24 a. The United States Attorney's Office acknowledges that the evidence gathered
25 during the investigation demonstrates that the Defendant is a highly accomplished
26 scientist whose research, teaching and writing on a national and international basis
27 regarding the function and diseases of the kidneys has made an important and substantial
28 contribution to the efforts to treat and prevent kidney disease.

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1 b. The United States Attorney's Office believes that it would be in the best
2 interest of the national and international medical community and population of patients
3 with kidney disease, that WILLIAM G COUSER be permitted to continue his research
4 and writing regarding kidney function and disease.

5 14 Defendant's Medical License.

6 a There is no allegation or evidence that the Defendant committed malpractice
7 or engaged in any practice that unreasonably compromised the safety and well-being of
8 patients

9 b The United States Attorney's Office believes that the public would be best
10 served by the Defendant retaining his license to practice medicine

11 c. The Defendant acknowledges that the issue of whether he may retain his
12 license is not within the jurisdiction of the United States Attorney's Office and that the
13 matter of his license(s) will be addressed by the appropriate licensing agency or
14 agencies

15 15 Non Prosecution of Additional Offenses. As part of this Plea Agreement,
16 the United States Attorney's Office for the Western District of Washington agrees not to
17 prosecute Defendant for any additional offenses known to it as of the time of this
18 Agreement that are based upon evidence in its possession at this time, or that arise out
19 of the conduct giving rise to this investigation. Defendant acknowledges and agrees,
20 however, that for purposes of preparing the Presentence Report, the United States
21 Attorney's Office will provide the United States Probation Office with evidence of all
22 relevant conduct committed by Defendant.

23 16 Voluntariness of Plea. Defendant acknowledges that he has entered into
24 this Plea Agreement freely and voluntarily, and that no threats or promises, other than
25 the promises contained in this Plea Agreement, were made to induce Defendant to enter
26 this plea of guilty.

27 17 Statute of Limitations. In the event that this Agreement is not accepted by
28 the Court for any reason, or Defendant has breached any of the terms of this Plea

1 Agreement, the statute of limitations shall be deemed to have been tolled from the date
2 of the Plea Agreement to. (1) 30 days following the date of non-acceptance of the Plea
3 Agreement by the Court, or (2) 30 days following the date on which a breach of the Plea
4 Agreement by Defendant is discovered by the United States Attorney's Office. The
5 Defendant agrees that the period of tolling described above shall be in addition to any
6 period of tolling previously agreed to between the Defendant and the United States

7 18. Acceptance of Responsibility The United States acknowledges that if
8 Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG §
9 3E1.1(a) and if the offense level is sixteen (16) or greater, Defendant's total offense
10 level should be decreased by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b),
11 because Defendant has assisted the United States by timely notifying the authorities of
12 his intention to plead guilty, thereby permitting the United States to avoid preparing for
13 trial and permitting the Court to allocate its resources efficiently.

14 19 Post-Plea Conduct. Defendant understands that the terms of this Plea
15 Agreement apply only to conduct that occurred prior to the execution of this Agreement
16 If, after the date of this Agreement, Defendant should engage in conduct that would
17 warrant an increase in Defendant's adjusted offense level or justify an upward departure
18 under the Sentencing Guidelines (examples of which include, but are not limited to:
19 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
20 pending sentencing, and false statements to law enforcement agents, the probation
21 officer or Court), the United States is free under this Agreement to seek a sentencing
22 enhancement or upward departure based on that conduct.

23 20. Completeness of Agreement. The United States and Defendant
24 acknowledge that these terms constitute the entire Plea Agreement between the parties
25 This Agreement only binds the United States Attorney's Office for the Western District

26 / / /

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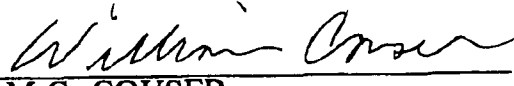
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1 of Washington. It does not bind any other United States Attorney's Office or any other
2 office or agency of the United States, or any state or local prosecutor.


3 Dated this 26th day of March, 2003.

4
5 
6 WILLIAM G COUSER
7 Defendant

8 
9 RICHARD HANSEN
10 Attorney for Defendant

11
12 
13 DONALD M. CURRIE
14 Assistant United States Attorney

15 
16 ROBERT WESTINGHOUSE
17 Assistant United States Attorney

18 
19 SUSAN LOITZ
20 Assistant United States Attorney